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**IN THE SUPREME COURT
STATE OF ARIZONA**

**In the Matter of
PETITION TO AMEND ARIZONA
RULES OF CRIMINAL
PROCEDURE TO ADOPT
MODEL VETERANS TREATMENT
COURT RULES OF PROCEDURE**

Supreme Court No. R-_____
**Petition to Amend Arizona Rules of
Criminal Procedure to Adopt Model
Veterans Treatment Court Rules of
Procedure**

Pursuant to Rule 28, Rules of the Supreme Court, Barbara Atwood and Timothy Berg, Commissioners with the Uniform Law Commission, respectfully petition this Court to amend the Arizona Rules of Criminal Procedure to adopt the Model Veterans Treatment Court Rules of Procedure (MVTCR or “Model Rules”), as set out in Appendix A. Petitioners recommend that the MVTCR be adopted as Arizona Rule of Criminal Procedure 36 (which is currently reserved), or at any

other appropriate location within the Arizona Rules of Criminal Procedure, given that they can apply in both superior courts and limited jurisdiction courts, particularly justice and municipal courts.

I. BACKGROUND FOR THE MVTCR AND ARIZONA'S VETERANS COURTS.

The Uniform Law Commission approved the MVTCR in 2017 because of growing national concern for veterans who suffer from post-traumatic stress syndrome or substance abuse addiction as a result of their deployment. Across the United States, veterans treatment courts have been established to provide assistance to veterans who are accused of low-level criminal activity by connecting them with treatment programs for rehabilitation. The goal of these courts is to rehabilitate and restore veterans as active, contributing members of their community.

Arizona has been a leader in the veterans treatment court movement. Under A.R.S. §§ 22-601 & 22-602, the presiding judges of superior courts in each county are authorized to establish veterans courts (as well as homeless courts and mental health courts) to adjudicate cases filed in a justice court or a municipal court in the county. Under § 22-601, each presiding judge can establish eligibility criteria for referral to a veterans court, and a justice of the peace or municipal court judge may then refer eligible cases to the veterans court. The originating court, under A.R.S. § 22-602, maintains jurisdiction of referred cases, and any judicial officer in the

county where the offense occurred can adjudicate a case referred to the veterans court.

To date, veterans courts established in Arizona cover a broad geographic area, representing a large population and diverse needs and resources, including:

- East Valley Regional Veterans Court;
- Maricopa County Superior Court Veterans Court (probation only);
- Coconino County Superior Court Veterans Court;
- Kingman Veterans Court;
- Lake Havasu City Consolidated Court Veterans Court;
- Mesa Municipal Veterans Court;
- Phoenix Municipal Court Veterans Court;
- Pima County Justice Court Veterans Court; and
- Tucson Municipal and Regional Municipalities Veterans Court.

This listing comes from <https://dvs.az.gov/veterans-court>, which also has additional information about Arizona's veterans courts and resources for veterans more broadly.

II. OVERVIEW OF THE MTVCR.

The MTVCR provides a procedural framework for veterans treatment courts in a way that is consistent with Arizona's broad statutory guidelines. Importantly, the MVTCTCR retain substantial local discretion necessary to accommodate

particular circumstances in different communities. The Model Rules acknowledge that veterans and servicemembers share a culture that, when coupled with the rehabilitation process found in a traditional drug or mental health treatment court, can significantly enhance their successful recovery and reintegration into the community. The Model Rules provide a chance of rehabilitation for veterans who have made substantial sacrifices to protect and serve their society and communities, by providing an opportunity to divert from the standard criminal docket.

The MVTCR would provide considerable benefits for the existing veterans courts in Arizona and would likely attract new participation from other counties. The Model Rules would provide inclusivity to all veterans by allowing veterans to be admitted into a veterans treatment court regardless of the character of their discharge from military service. The Rules allow for prosecutorial discretion to determine a veteran's admission to the veterans treatment court and judicial discretion to determine what occurs in a case after a veteran is admitted. Also, the MVTCR make use of local rehabilitation resources by promoting partnerships with a network of substance use disorder treatment programs.

The Model Rules give special consideration to cases of domestic violence with attention to the rights of the victim. Under the Rules, if the victim can be reasonably located, the victim or alleged victim must be offered (1) referrals to

services of domestic violence providers, as well as (2) information on how to report an allegation of an offense committed by the defendant or a violation by the defendant of the participation agreement.

Finally, the MVTCR allow flexibility by authorizing a court to administer a veterans treatment court that can adjudicate both misdemeanor and felony offenses. Arizona law at present only authorizes referrals from justice and municipal courts, but the Model Rules provide broader latitude if the state chooses to authorize.

III. OUTREACH EFFORTS.

To date, outreach efforts have included informal contact with ten Arizona Superior Court Presiding Judges, some of whom have contacted municipal courts in their jurisdiction, as well as a small number of leaders in Arizona's veterans courts. Although informal and limited, to date, the feedback has been positive for moving forward with the MVTCR, with some helpful questions being offered as well. Petitioners recognize, however, that these efforts are only a beginning.

After this Petition is filed, Petitioners intend to solicit comments from other key stakeholders, including: the Arizona Prosecuting Attorneys Advisory Counsel, Arizona Attorneys for Criminal Justice, Arizona Voice for Crime Victims, the Arizona Attorney General, the Arizona Department of Veterans' Services, the State Bar of Arizona, all Arizona Superior Court Presiding Judges, Presiding Limited Jurisdiction Court Judges, probation officers and others.

IV. CONCLUSION

Petitioners respectfully request that the Court consider this petition and proposed Rule at its earliest convenience. Petitioners additionally request that the petition be circulated for public comment until May 20, 2019, and that the Court adopt the proposed Rule as attached in Appendix A, or as modified in light of comments received from the public, with an effective date of January 1, 2020.

Respectfully submitted January 9, 2019.

/s/ Timothy Berg

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